

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

D-1 Edward C. GALKA,

Defendant.

Case No. 2:16-cr-20254

Hon. Gershwin A. DRAIN

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United States' Brief in Response to Defendant's Motion to be Released  
Pending Appeal

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The United States submits this brief in response to Defendant's  
motion (ECF No. 157).

Respectfully submitted,

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Date: January 3, 2023

I. **Government's Response Brief**

Defendant's motion is governed by the application of federal statute 18 U.S.C. § 3143, which creates a presumption against release pending appeal. *See United States v. Roscoe*, 455 F.Supp.3d 449, 455 (E.D. Mich. 2020). The aforementioned statute mandates that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or petition for a writ of certiorari, must be detained unless: (i) the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community, and (ii) that the appeal is not for the purposes of delay and raises a substantial question of law or fact likely to result in reversal, an order for a new trial, or a sentence that does not include a term of imprisonment less than the total of time served plus the expected duration of the appeal process.

The defendant bears the burden of demonstrating that these requirements have been satisfied. *See United States v. Sypher*, 2011 WL 1314669 \*1 (W.D. Ky. April 1, 2011). Defendant's motion, which is nothing more than a representation by Mr. Galka that "his [c]ancer has returned," ECF No. 157: Motion for Bond, PageID 1279, cannot be

taken at face value. Due to the defendant's well-established history in this case – at all critical stages – of deceit, distortion, and deception, the government asks that the defendant be ordered to submit documentation to the court substantiating his representations.<sup>1</sup> This additional information is necessary and essential for the Government to make an informed judgment as to its position relative to the defendant's bond request.

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<sup>1</sup> See attached Government Exhibits 1 and 2.

## II. Conclusion

The United States respectfully requests this Honorable Court to Order the defendant to produce medical documentation supporting his assertion that his cancer returned. Alternatively, the defendant's motion should be denied because he has not born his burden, pursuant to 18 U.S.C. § 3143, by clear and convincing evidence.

Respectfully submitted,

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Date: January 3, 2023

Certificate of Service

I hereby certify that on January 3, 2023, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to ECF participants, including:

Edward C. GALKA, *pro se*

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